

Judicial Branch News

Fall 2008



Supreme Court Bench and Bar Survey

A letter from Chief Justice Karla M. Gray

Last month, the Montana Supreme Court asked nearly 1,000 appellate lawyers, as well as all of Montana's District Court Judges and the University of Montana Law School teaching faculty, for their thoughts on the Court's performance.

Using an anonymous on-line survey, respondents rated the Court's performance in areas central to its primary obligations, including whether the Court's decisions are based on facts and applicable law, whether the Court's published opinions explain deviations from established law and the adoption of new developments in law, and whether the Court treats judges and attorneys with courtesy and respect. The survey also inquired about the Court's timeliness in completing its overall workload and issuing opinions.



The survey is part of a larger project, approved by the Supreme Court in September of 2007, to develop a set of measures to gauge the Court's

performance. In addition to measuring "consumer" satisfaction through the survey, the Court is developing performance measures involving on-time case processing, case clearance, and age of pending caseload, and hopes to have that "hard data" before the end of this year. The National Center for State Courts is providing technical assistance in the development and implementation of the measurement tools, which we intend to repeat regularly to gauge improvements.

The survey response rate was very good – 46.3% of the appellate attorneys, judges, and law school faculty polled took the time to respond. We greatly appreciate the high response rate, and thank all who participated.

A summary of the survey results is available by clicking on the following link: [statistical summary](#). As you will note, over 90% of the respondents believe that the Court does a good job in providing information about its roles, procedures, and operations, and that it treats trial court judges with courtesy and respect. Eight out of ten say that the

Court's published opinions clearly state the appropriate rule of law, identity and apply standards of review, and provide instructions on remand; an even higher number agree that the Court treats attorneys with courtesy and respect. Regarding attorney discipline, nearly eight out of ten respondents agree that the Court's attorney disciplinary process is fair and that sanctions imposed on attorneys are proportionate to the misconduct.

Survey respondents rated the Court lowest in the area of timeliness, an area that obviously needs the Court's earliest attention. Only 38% of the respondents felt that the Court completes its overall workload in a timely manner, and only 31% said that opinions are issued on time. We have implemented a number of "efficiencies" in recent years, but they have not been enough given our caseload. We know we can--and must--make improvements regarding the overall timeliness of the appellate process; we will do so, but not by

sacrificing our strengths. In any event, we likely will need help from appellate lawyers and additional resources from the Legislative and Executive Branches to achieve the timeliness which will satisfy the Court and its primary consumers, and better serve the people of Montana.

The survey results provide us with valuable insights about our strengths and weaknesses. We will use these results, together with the "hard data" measures set out above, to help us identify ways in which the Court can improve, and we intend to conduct the survey annually to obtain feedback from our primary consumers. We are convinced that by asking "How are we doing?"--and learning from and acting on the responses--the Montana Supreme Court will improve and provide an even stronger system of justice for Montana.

Task Force work begins on E-Filing and Remote Access

Submitted by Ed Smith

After the 2007 Montana Legislature provided funding for a Judicial Branch electronic filing pilot project, the Montana Supreme Court's Commission on Technology appointed an E-Filing Task Force and named Ed Smith, Clerk of the Supreme Court, as chairman. In June, the Court expanded the scope of the task force's work to address specific issues related to privacy and public

access to court records via remote access (internet).

The newly titled E-Filing and Remote Access Task Force held its first meeting on June 26, 2008. The primary goal of the group is to define and adopt functional and technical requirements that will serve as the basis for issuance of a formal request for proposal to secure a vendor to then design and

implement a comprehensive electronic filing system for the entire branch--the limited jurisdiction courts, district courts, and supreme court. In addition to this goal, the task force will study and recommend policies and procedures for accessing court records via the internet.



“We have a great opportunity to design the best e-filing system in the country, but it will take vision and commitment by all the stakeholders in our Montana state court system to make it a reality,” said Smith.

While many state’s have employed e-filing at various levels of court, it is the aim of the task force to create and implement an e-filing system that comprehensively addresses the e-filing needs of all levels of state courts. Such a system would be the first of its kind nationally. In concept, this system would be designed to interact with various systems already being used, or available for use, by the practicing bar, general government, law enforcement, and self-represented litigants.

To aid in accomplishing this comprehensive approach, the task force has established working groups to study and make recommendations to the task force in the areas where e-filing interacts with the issues of rules implementation, archival and document management. The needs of the courts of limited jurisdiction, who have direct interaction with law enforcement, may require special attention and requirements not typically found at the other levels of court. Additional working groups will focus on pro se litigants, the implications of e-filing with

privacy and access rights, and the technical requirements necessary to support statewide e-filing.

The task force is meeting once a month and the meetings are open to the public, the date, location and time of which are posted on the judicial branch website. At present, the task force is reviewing the functional and technical e-filing standards developed and adopted by the National Center for State Courts in 2003. In addressing each national standard in this lengthy document, the task force takes action discussing, adopting, rejecting and/or referring to one or more working groups, the standard in question. The task force hopes to emerge from this process with a set of requirements tailored to the specific needs of our courts and our citizens.

The membership of the task force and its working groups has been designed to incorporate broad input and viewpoints from e-filing users representing the bench, the bar, clerks of court, and the public. The members of the task force are: **Ed Smith** (Chair), Clerk of the Supreme Court; **Hon. Thomas McKittrick**, 8th Judicial District; **Hon. Russell Fagg**, 13th Judicial District; **Hon. Larry Carver**, Justice of the Peace, Judith Basin County; **Nancy Sweeney**, Clerk of District Court in Lewis and Clark County; **Laura Brent**, Clerk of District Court in Yellowstone County; **Shorty Stewart**, Clerk of Court, Missoula County Justice Court; **P. Mars Scott**, Missoula Attorney; **Allison Paul**, Deputy Director of Montana Legal Services Association; and **Chris Manos**, Executive Director of the State Bar of Montana.

The task force is staffed by **Karen Nelson**, Director of Information Technology, Supreme Court Administrator's Office, and **John Ramirez**, Project Manager from Computer Consulting Corporation.

The working group members are:

1. Rules: **Peg Allison**, Chair, Clerk of District Court, Flathead County

Lori Maloney, Clerk of District Court, Butte/Silver Bow

Bernie Cassidy, Lincoln County Attorney

Judge Greg Mohr, Richland County Justice of the Peace

Becky Bird, District Court Administrator, Yellowstone County

Barbara Hartzell, Missoula Paralegal

2. Archives/Document Management: **Kay Johnson**, Chair, Clerk of District Court, Blaine County

Ruth Reeves, Clerk of District Court, Cascade County

Jodie Foley, State Archivist

Patti Borsberry, Deputy Secretary of State for Records

Audrey Hinman, Internet Technology Services Bureau Chief, Dept. of Admin.

Sharon Skaggs, Clerk of Yellowstone County Justice Court

3. Limited Courts: **Judge Greg Mohr**, Chair, Richland County Justice of the Peace

Sharon Skaggs, Clerk Yellowstone County Justice Court

Thelma Keys-Nicol, Clerk of Kalispell Municipal Court

Sheri Bishop, Clerk of Gallatin County Justice Court

Judge Johnny Seiffert, Carbon County Justice of the Peace

4. Pro Se Litigants: **Ed Higgins**, Chair, Attorney, Self Help Law, MT Legal Service

Lonnie Browning, Self Help Law Administrator, Court Administrator's Office

Judge Michele Snowberger, City Judge, Belgrade

Shirley Faust, Clerk of District Court, Missoula County

5. Privacy and Access: **Corbin Howard**, Chair, Attorney Billings

Tim Little, Esq., Missoula Montana Legal Services

Jennifer Brandon, Clerk of District Court, Gallatin County

Kent Sipe, Musselshell County Attorney

Tina Sunderland, Missoula Paralegal

Sheri Bishop, Clerk of Gallatin County Justice Court

6. Technical

Karen Nelson, Chair, IT Director, OCA

Jim Dolezal Missoula County IT Office

Other members to be determined

Youth Court Report Card



The updated Youth Court Report Card is available on-line at [Youth Court Report Card](#). Detailed information about juveniles referred to Montana's Youth Courts is available in the report. Questions about the report can be directed to Bob Peake at 406-841-2961. A video about the Youth Court's informal process is also available at [MT - Youth Court](#). The Montana Juvenile Probation Officers' Association produced the video.

Court Honors COCOLJ Members

The Supreme Court honored two departing members of the Commission on Courts of Limited Jurisdiction with a ceremony in August. Judge Scott Wyckman, Gallatin County Justice of the Peace and Paul Luwe, Bozeman City Attorney, were thanked for the service to the limited jurisdiction courts. Judge Wyckman was a key person in the deployment of the FullCourt case management system in the courts while Mr. Luwe was instrumental in providing local government expertise to the group.

The Commission is charged with managing training for the 100 plus limited jurisdiction court judges in Montana. Judges in the limited jurisdiction courts must attend two training sessions each year. The Commission is charged with designing the training content. In addition, the Commission, through its automation committee provides policy oversight for technology projects in the limited courts.



Justice Jim Rice and Chief Justice Karla Gray join members from the COCOLJ following a ceremony honoring departing Commission members. Members include (front) Justice Rice, Judge Mary Jane Knisely, Chief Justice Gray, Judge Gayle Stahl, (back) Karen Sedlock, County Attorney Shaun Donovan, City Attorney Paul Luwe, Judge Scott Wyckman, Judge Johnny Seiffert, Clerk of Court Barb Pepos, Professor Peggy Tonon, Judge Perry Miller and Judge Larry Carver.

Missoula Celebrates Self-Help Law Program

Equal Justice Forums Begin

The 4th Judicial District's Self-Help Law program, funded by a mini-grant from the state program officially opened in early August. The program, which provides 8 hours of staffed support each week to self-represented litigants, is one of 8 mini-grant programs throughout the state. The district partnered with the Missoula YWCA, who employ the staff person. The local bar provided support in the form of attorney Cindy Thiel, who provides oversight.



Judge Dusty DesChamps watches Charlotte Beatty as she is interviewed by local media about the self-help law program. Judge DesChamps and Ms. Beatty led the effort to start the Missoula project.

The Self-Help Law program, funded by the 2007 Legislature, supports a variety of programs throughout the state including two full-time staffed centers. The centers – one in Billings and one in Kalispell – have assisted more than 2,000 self-represented litigants since starting in January.

The program also funds a forms development contract with Montana Legal Services. Through the contract, MLSA will develop legal forms for self-represented litigants in the area. Forms

will be approved by the Commission on Self-Represented Litigants and will be made available electronically to Montana citizens.

Pro Bono and Equal Justice Activities

The Supreme Court is actively participating in equal justice forums throughout the state. A variety of organizations and commissions are hosting the forums designed to get a sense of problem facing self-represented litigants. Patty Fain, the statewide pro bono coordinator, has played an active role in establishing and hosting the forums.



Judge Kenneth Neill, Justice Pat Cotter and Municipal Court Judge Nancy Luth listen intently to speakers at a Great Falls equal justice forum. (Photo courtesy of Stuart White of the Great Falls Tribune)

Patty's activities with the pro bono project, funded by a Montana Justice

Foundation grant, continue throughout the state. Through a partnership with the Yellowstone Area Bar Family Law Project, she recently produced a DVD for self-represented litigants involved in family law cases. The DVD will be available in a number of different locations.

Questions about the self-help law program can be directed to Lonnie Browning at 406- 841-2904 or LBrowning@mt.gov.

Questions about pro bono programs can be directed to Patty at 406-794-7824 or PFain@mt.gov.

Court Technology Program Update

The rollout of the FullCourt case management system in Montana District Courts continues full throttle as the priority project for the Court IT staff. To date, twenty-five (25) District Courts have transitioned to the FullCourt case management system with full deployment projected by January 2009.

In addition, the FullCourt Jury program has been deployed to all District Courts and most urban courts of limited jurisdiction. This accelerated roll-out of the jury program was necessary to accommodate the combined motor-voter juror list mandated by the Montana Legislature

for the 2008 jury term. It was also the course of action recommended by the Clerks of Court Automation Committee.

The Automation Committee of the Courts of Limited Jurisdiction, the Supreme Court Self Help Law Program, Montana Legal Services, and staff from the Attorney General's Office are working on a new sample packet of forms for Orders of Protection. The packet provides a complete offering of sample petitions, orders, motions and notices for Orders of Protection. In conjunction with this effort, Court IT is developing on-line interactive versions of the sample forms using ProBono.NET's A2J and HotDoc server.

The State of Montana data and video network servicing all Montana courthouses will be undergoing a major upgrade by the State's Department of Administration over the next several months. This upgrade will increase the bandwidth to Montana's courthouses while at the same time supporting both data and video over the same network infrastructure.

Questions about these and other IT projects can be directed Karen Nelson at 406-841-2944.

Welcome New Employees

***Skye O'Byrne
21st District Youth
Court***

***Julianne Armstrong,
OCA***

***Linda Carlson, 18th
District JA***

***Miracle Hemmingsen,
20th District JA***

***Kristen Coil, 18th
District Court Reporter***

***Deidre Dietrich, 10th
District Court Reporter***

***Jim Myers, 4th District
Youth Court***

***Tana Hedges, 12th
District Youth Court***

***Sabrina Hansen, 13th
District Law Clerk***

***Shiloh Hernandez, 18th
District Law Clerk***

***Rennie Stichman, 13th
District Law Clerk***

***Robin Turner, 18th
District Law Clerk***

***Luke Burger, Supreme
Court Law Clerk***

***Elizabeth Erickson,
Supreme Court Law
Clerk***

***Katherine Jerstad,
Supreme Court Law
Clerk***

***Michael Kauffman,
Supreme Court Law
Clerk***

***Mary Leffers, Supreme
Court Law Clerk***

***Cynthia Moore,
Supreme Court Law
Clerk***

***Leah Niedl, Supreme
Court Law Clerk***

***Hillary Oitzinger,
Supreme Court Law
Clerk***

***Mark Thieszen
Supreme Court Law
Clerk***

***Helen Thigpen,
Supreme Court Law
Clerk***

***Kathleen Ellis,
Supreme Court Law
Clerk***

***Robert Bird, OCA
Information Tech***

***Margaret Ries, OCA
Information Tech***

***Katrina Martin, Clerk
of the Supreme Court's
Office***

***Congratulations to
long-time 11th Judicial
District Chief Juvenile
Probation Officer Pat
Warnecke and JPO
Noel Kirack, who
retired in September.***

The Judicial Branch newsletter is distributed four times a year through e-mail. Printed copies are not produced. For more information or comments please contact Beth McLaughlin at 406-841-2966.